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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,079	07/11/2001	Dominique Gerrand	VMF-492-A	6834

7590

03/11/2003

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EXAMINER

SMITH, JULIE KNECHT

ART UNIT

PAPER NUMBER

3682

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

8K

Office Action Summary

Application No.

09/889,079

Applicant(s)

GERRAND ET AL.

Examiner

Julie K Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 12-15 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (4,713,568) in view of Adams (4,049,856).

Regarding claim 12, Adam et al. discloses a motor vehicle gear motor comprising a core motor (4) and a reduction gear base (3), the core and base having metal mating flanges with outer peripheries protruding away from the core and base respectively, a joint (4) interposed between the core and the base. Adam et al. is silent as to the composition of the joint. However, Adams teaches a joint (5) including a sealing material and a metal element (9) that contact metal parts of a core and base, the metal element operable to conduct electrical current between the core and the base.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the gear motor of Adam et al. with the seal of Adams so as to provide a seal between the core and base that serves as a means to align the core and base while providing an electrical contact between the core and base while protecting against chemical erosion thus increasing the life expectancy of the mechanism.

Although Adam et al. does not disclose the gear motor being used for a wiper application, it would have been obvious to one skilled in the art at the time the invention was made to use the gear motor for a wiper application as the motor can be used for various functions within an automobile.

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Regarding claims 13-15 and 21, Adams teaches the plastic seal having several fixation orifices (6,7,8) adjoining the embedded metal elements (9), the two metal elements being disjointed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the gear motor of Adam et al. of with the seal of Adams so as to provide a seal with several fixation orifices for a secure connection between the seal and motor. It would have further been obvious to provide the orifices with embedded metal elements so as to prevent the orifice from tearing or becoming disfigured as well as preventing major breakdown of the machine.

Regarding claim 20, Adam et al. discloses the core and base having a cylindrical sector (see figs. 3 and 5) the joint having an opening (see fig. 9), able to receive the cylindrical sector, and a stop (42,43) projecting into the opening.

2. Claims 16-18 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. in view of Adam as applied to claims 12-15 and 20-21 above, and further in view of Kuribara et al. (5,004,090).

Regarding claims 16-18, Adam et al. discloses a gear motor with definitive fixation means for the joint to the core motor (21,22,23) as claimed, including a wall (2) that externally surrounds the outer periphery of the mating flange of the core, but does not disclose temporary fixation means as claimed by Applicant. However, Kuribara et al. teaches a temporary clipping lug (35, see figs. 4 and 5) on a joint (30), the lug having an access orifice in order to remove the temporary fixing means.

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Therefore, it would have been obvious to one of ordinary skill in the art to provide the joint of the reference combination set forth above with a temporary clipping lug so that the joint could be temporarily attached to the gear motor housing and then attached to the base. This method of assembling the motor would reduce the complexity of assembling the apparatus and ensure that the base and housing were properly aligned so as to provide a tight seal between the two portions to save maintenance cost by preventing fluid leakage. It would have further been obvious to provide an access orifice in the lug so as to provide a way to release the lug once the definitive fixing means had been secured.

With respect to claims 22 and 23, it should be noted that the applicant defines the product in terms of a process by which it is made is nothing more than a permissible technique the applicant may use to define the invention since there is no structural difference is required.

Response to Arguments

3. In response to applicant's argument that the metal eyelets of Adams were designed for preventing gasket failure and not intended to be used as electrical passageways, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

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4. Regarding claim 20, Applicant argues that the slots cited by the Examiner are merely slot-shaped opening, and not stops. However, the openings (42,43) are used to correctly position the seal within the housing, therefore, can be considered stops. Stop (43) project into the opening, as claimed.

5. Regarding claims 16-18, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the assembly of the reference combination of Adams et al. in view of Adam could be modified to have the temporary connecting lugs of Kuribara et al. for the reasons stated in the above rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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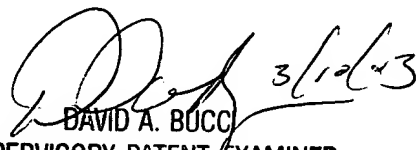
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Smith whose telephone number is 703-305-3948. The examiner can normally be reached on Monday-Friday, 8-5:30, (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

JKS
jks
March 9, 2003


DAVID A. BUCCI
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